

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Daniel Kleeberg, Lisa Stein, and Audrey Hays

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Brian C. Brook
Clinton Brook & Peed
641 Lexington Avenue, 13th Fl., New York, NY 10022 - (212) 328-9559

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE) (DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. 1332, breach of fiduciary duty and fraudulent concealment

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No Yes

Judge Previously Assigned

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No Yes

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

		TORTS	ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
[] 110 INSURANCE	[] 310 AIRPLANE	[] 367 HEALTHCARE/PHARMACEUTICAL PERSONAL	[] 625 DRUG RELATED	[] 422 APPEAL	[] 375 FALSE CLAIMS	
[] 120 MARINE	[] 315 AIRPLANE PRODUCT LIABILITY	[] 365 PERSONAL INJURY	SEIZURE OF PROPERTY	28 USC 158	[] 376 QUI TAM	
[] 130 MILLER ACT	LIBEL & SLANDER	PRODUCT LIABILITY	21 USC 881	[] 423 WITHDRAWAL	[] 400 STATE	
[] 140 NEGOTIABLE INSTRUMENT	[] 320 ASSAULT, LIBEL & SLANDER	[] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	[] 690 OTHER	28 USC 157	REAPPORTIONMENT	
[] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	[] 330 FEDERAL EMPLOYERS' LIABILITY	PERSONAL PROPERTY			[] 410 ANTITRUST	
[] 151 MEDICARE ACT	[] 340 MARINE	[] 370 OTHER FRAUD			[] 430 BANKS & BANKING	
[] 152 RECOVERY OF DEFANTED STUDENT LOANS (EXCL VETERANS)	[] 345 MARINE PRODUCT LIABILITY	[] 371 TRUTH IN LENDING			[] 450 COMMERCE	
[] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	[] 350 MOTOR VEHICLE PRODUCT LIABILITY				[] 460 DEPORTATION	
[x] 160 STOCKHOLDERS SUITS	[] 355 MOTOR VEHICLE PRODUCT LIABILITY	[] 380 OTHER PERSONAL PROPERTY DAMAGE	LABOR	[] 820 COPYRIGHTS	[] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)	
[] 190 OTHER CONTRACT		[] 362 PERSONAL INJURY - MED MALPRACTICE	[] 385 PROPERTY DAMAGE	[] 830 PATENT	[] 480 CONSUMER CREDIT	
[] 195 CONTRACT PRODUCT LIABILITY	ACTIONS UNDER STATUTES		PRODUCT LIABILITY	[] 840 TRADEMARK	[] 490 CABLE/SATELLITE TV	
[] 196 FRANCHISE	CIVIL RIGHTS	PRISONER PETITIONS		SOCIAL SECURITY		
	[] 440 OTHER CIVIL RIGHTS (Non-Prisoner)	[] 463 ALIEN DETAINEE	LABOR	[] 861 HIA (1395ff)	[] 850 SECURITIES/ COMMODITIES/ EXCHANGE	
REAL PROPERTY		[] 510 MOTIONS TO VACATE SENTENCE	[] 710 FAIR LABOR STANDARDS ACT	[] 862 BLACK LUNG (923)		
[] 210 LAND CONDEMNATION		28 USC 2255	[] 720 LABOR/MGMT RELATIONS	[] 863 DIWC/DIWV (405(g))	[] 890 OTHER STATUTORY ACTIONS	
[] 220 FORECLOSURE			[] 740 RAILWAY LABOR ACT	[] 864 SSID TITLE XVI	[] 891 AGRICULTURAL ACTS	
[] 230 RENT LEASE & EJECTMENT	ACCOMMODATIONS		[] 751 FAMILY MEDICAL LEAVE ACT (FMLA)	[] 865 RSI (405(g))		
[] 240 TORTS TO LAND	[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT			FEDERAL TAX SUITS		
[] 245 TORT PRODUCT LIABILITY		[] 530 HABEAS CORPUS	[] 790 OTHER LABOR LITIGATION	[] 870 TAXES (U.S. Plaintiff or Defendant)	[] 893 ENVIRONMENTAL MATTERS	
[] 290 ALL OTHER REAL PROPERTY		[] 535 DEATH PENALTY	[] 791 EMPL RET INC SECURITY ACT (ERISA)	[] 871 IRS-THIRD PARTY	[] 895 FREEDOM OF INFORMATION ACT	
		[] 540 MANDAMUS & OTHER		26 USC 7609	[] 896 ARBITRATION	
					[] 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION	
					[] 950 CONSTITUTIONALITY OF STATE STATUTES	

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.
AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?

IF SO, STATE:

DEMAND \$> \$10,000,000 OTHER equitable relief JUDGE DOCKET NUMBER

Check YES only if demanded in complaint
JURY DEMAND: YES NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN *x* IN ONE BOX ONLY)

- | | | | | | | |
|---|---|--|---|--|---|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from (Specify District) | <input type="checkbox"/> 6 Multidistrict Litigation (Transferred) | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge |
| <input type="checkbox"/> a. all parties represented | | | <input type="checkbox"/> b. At least one party is pro se. | | | |
| <input type="checkbox"/> 8 Multidistrict Litigation (Direct File) | | | | | | |

(PLACE AN *x* IN ONE BOX ONLY)

- 1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 FEDERAL QUESTION 4 DIVERSITY
(U.S. NOT A PARTY)

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF [] 1	DEF [X] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF [] 5	DEF [] 5
CITIZEN OF ANOTHER STATE	[X] 2	[] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6	[] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Daniel Kleeberg - 6957 Pisano Dr., Lake Worth, FL 33467

Lisa Stein - 104 Holly Lane, Linwood, NJ 08221

Audry Hays - 26725 Henderson Park Rd., Oak Creek, CO 80467

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Wendy Eber, 188 East 78th Street, Apartment 21A, New York, New York 10075 (New York Co.)

Lester Eber, 15 Coral Way, Rochester, New York 14618 (Monroe Co.)

Eber Bros. Defendants - 155 Paragon Dr., Rochester, New York (Monroe Co.)

Canandaigua National Corp., 72 South Main St., Canandaigua, New York (Ontario Co.)

Alexbay and Eber-Connecticut - 30 Corporate Dr., New Haven CT

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Elliot W. Gumaer - used to be a New York resident, and current address not yet ascertained

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

DO NOT check either box if this is a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS MANHATTAN

DATE 12/9/2016 SIGNATURE OF ATTORNEY OF RECORD

RECEIPT # /s/ Brian C. Brook

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

[X] YES (DATE ADMITTED Mo. 05 Yr. 2006)
Attorney Bar Code # BB 1980

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)